IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr. Misc. No.27268 of 2008
MADAN MOHAN PRASAD SINGH
Versus
THE STATE OF BIHAR THRU. CBI.
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3. 12.8.2008 Heard learned counsel for the petitioner and learned counsel for the C.B.I.

The petitioner prays for anticipatory bail in a case under Sections 420, 468, 471, 409, 120 B of the Indian Penal Code and Section 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988.

The allegation in the first information report, which was originally registered on 2.9.1999 by the local police and subsequently handed over to C.B.I which registered it as a fresh case on 9.6.2006, is that one Ram Bilas Paswan alias Yogendra Paswan had obtained appointment letter as Primary Teacher in Primary School Bahbalpur and illegally joined in the year 1977 on the basis of an appointment letter issued in the name of one Yogendra Paswan, son of Muneshwar Paswan and continued to work there for more than 20 years. Subsequently, on the complaint being made by the real Yogendra Paswan, the matter was enquired into and it was found that on the basis of forged marks-sheet and certificates, the said Ram Bilas Paswan had obtained the appointment. So far as the petitioner is concerned, against him the allegation is that during the course of enquiry in the matter by the District Superintendent of Education, in whose office the petitioner was working as Stenographer in the year, 1998, it was found that four letters bearing memo no. 783 dated 11.2.1998 and 2032 dated 4 4.1998

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addressed to the Primary teachers Training College, Purabsarai, Munger and letter nos. 784 dated 11.2.1998 and 2033 dated 4.4.1998 addressed to S.K. High School, Nayagaon were sent for verification of the marks-sheets/ certificates of the accused Ram Bilas Paswan alias Yogendra Paswan but on letter no.2033 dated 4.4.1998 the word “Samastipur “ was cut and written as “ Khagaria” by this petitioner and it was also found that although the said letters were dispatched through entry in the Despatch Register of the office but they were never sent to the addressees and they were retained by the petitioner. The said letters although never reached the destination, but receipts were shown of letters confirming the said marks- sheets/ certificates as genuine from the college or school concerned.

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Learned counsel for the petitioner submits that the petitioner was not working in the office of the District Superintendent of Education in the year 1977 when the appointment letter was issued and thus he had no concern at all in the appointment of said Ram Bilas Paswan alias Yogendra Paswan.

It is, thus, submitted that so far as the main allegation of obtaining appointment by impersonation on the basis of forged marks-sheets and certificates is concerned, the petitioner is not at all involved in the same. It is further submitted by learned counsel for the petitioner that the only allegation made against the petitioner is that he had played a fraudulent role during the course of verification of the marks-sheets/ certificates in the office of the District Superintendent of Education, wherein it is alleged that he had tampered with the destination of one of

the letters and it is further alleged that he was instrumental in keeping the said letters in the file, which was allegedly in his custody and the letters were never sent. In this regard, it is submitted that admittedly there is a Despatch Clerk in the office of the District Superintendent of Education and in the Despatch Register also relevant entries have been found evidently made by the said Despatch Clerk. It is stated that instead of making the said Despatch Clerk an accused in the present matter, he has been made a witness by the C.B.I and only on the basis of allegations made by him that after entries in the Dispatch Register the petitioner had kept the letters in his custody, he has been made an accused. So far as changing the place of the school from Samastipur to Khagaria is concerned, it is submitted that from the list of witnesses itself, it is evident from serial nos. 26 and 31 therein that S.K. High School, is located at Nayagaon, Khagaria and there is no such school by the same name located at Samastipur since at serial no.26, the name of the school is mentioned as Sri Krishna Prasad Singh High School, P.O. Nayanagar, District Samastipur. It is thus submitted that S.K. High School is, as a matter of fact situated at Nayagaon, Khagaria and thus, even if it is accepted that the petitioner, in one of the letters, had changed the final destination from Samastipur to Khagaria, it cannot be held to be a criminal act on the part of the petitioner as stated in the prosecution case, since the Investigating Agency admits in the charge sheet that S.K. High School is, as a matter of fact, located at Nayagaon, Khagaria and not Samastipur.

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Learned counsel for the petitioner also points out that

the petitioner is an old man aged about 60 years and he is suffering from a number of diseases including heart problem. It is also submitted that he was not named in the first information report lodged by the State Police on 2.9.1999 nor in the subsequent case registered by the C.B.I. on 9.6.2006. It is also urged that when the charge sheet in this case was submitted on 30.9.2001 by the State Police it was against the main accused Ram Bilas Paswan alias Yogendra Paswan and not against this petitioner. It is alleged by learned counsel that for certain reasons best known to the Investigating Agency, instead of making the real culprit as an accused in the matter like the Despatch Clerk, who had made entries regarding the letter in the Despatch Register, this petitioner has been wrongly made an accused in this case.

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Learned counsel for the petitioner also points out that similarly situated co-accused persons have been granted anticipatory bail or bail by this Court. He refers to the order dated 27.9.2007 passed in Cr. Misc. No. 41928 of 2007 by which Krishna Mohan Das Mazumdar, Head Clerk in the office of the District Superintendent of Education has been released on anticipatory bail. Reference is also made to the grant of bail to accused Ranjan Kumar Sah by order dated 23.11.2007 passed in Cr. Misc. No.49129 of 2007.

Learned counsel for the C.B.I, on the other hand, opposes the prayer for anticipatory bail stating that the case of the petitioner is not on the same footing as that of Krishna Mohan Das Mazumdar against whom the allegation was that he being the Head Clerk received certain forged verification letters of S.K. High School. It

is stated that similar allegations were made against Ranjan Kumar Sah of having received certain letters being the Receipt Clerk, whereas the petitioner was the Stenographer in the office of the District Superintendent of Education and he had written in his own handwriting four letters, which were sent for verification of the marks- sheets/ certificates, and after the entry in the Dispatch Register, he had kept the records in his custody since he was the custodian of the file. Learned counsel for the C.B.I submits that in this regard a statement was made by the Despatch Clerk of the office of the D.S.E., namely, Krishna Yadav.

Learned counsel for the petitioner opposing the said stand states that instead of making the Despatch Clerk as an accused, reliance is sought to be made on his statement. In fact, dispatching the letters is the function of the Despatch Clerk and not this petitioner, who was the Stenographer in the office of the District Superintendent of Education . Thus, on that basis no inference can be drawn against the petitioner at the stage of consideration of the prayer for anticipatory bail.

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On a consideration of the aforesaid facts and circumstances, it is directed that the petitioner (Madan Mohan Prasad Singh) in the event of his arrest/ surrender in the court below within four weeks from today, shall be released on bail on furnishing bail bond of Rs.10,000/ - with two sureties of the like amount each to the satisfaction of the Special Judge, C.B.I., North Bihar, Patna in connection with Special Case No.13/2006, arising out of R.C. No. 8(A)/2006.

VPS **(Ramesh Kumar Datta,J.)**